

3.7371 COMPENSATION FOR CROP OR FENCE DAMAGE CAUSED BY ELK.

Subdivision 1. **Authorization.** Notwithstanding section 3.736, subdivision 3, paragraph (e), or any other law, a person who owns an agricultural crop or pasture shall be compensated by the commissioner of agriculture for an agricultural crop, or fence surrounding the crop or pasture, that is damaged or destroyed by elk as provided in this section.

Subd. 2. **Claim form.** The crop or pasture owner must prepare a claim on forms provided by the commissioner and available at the county extension agent's office. The claim form must be filed with the commissioner.

Subd. 3. **Compensation.** The crop owner is entitled to the target price or the market price, whichever is greater, of the damaged or destroyed crop plus adjustments for yield loss determined according to agricultural stabilization and conservation service programs for individual farms, adjusted annually, as determined by the commissioner, upon recommendation of the county extension agent for the owner's county. Verification of fence damage or destruction by elk may be provided by submitting photographs or other evidence and documentation together with a statement from an independent witness using forms prescribed by the commissioner. The commissioner, upon recommendation of the agent, shall determine whether the crop damage or destruction or damage to or destruction of a fence surrounding a crop or pasture is caused by elk and, if so, the amount of the crop or fence that is damaged or destroyed. In any fiscal year, an owner may not be compensated for a damaged or destroyed crop or fence surrounding a crop or pasture that is less than \$100 in value and may be compensated up to \$20,000, as determined under this section, if normal harvest procedures for the area are followed. In any fiscal year, the commissioner may provide compensation for claims filed under this section up to the amount expressly appropriated for this purpose.

Subd. 4. **Insurance deduction.** Payments authorized by this section must be reduced by amounts received by the owner as proceeds from an insurance policy covering crop losses or damage to or destruction of a fence surrounding a crop or pasture, or from any other source for the same purpose including, but not limited to, a federal program.

Subd. 5. **Decision on claims; opening land to hunting.** If the commissioner finds that the crop or pasture owner has shown that the damage or destruction of the owner's crop or damage to or destruction of a fence surrounding a crop or pasture was caused more probably than not by elk, the commissioner shall pay compensation as provided in this section and the rules of the commissioner. A crop owner who receives compensation under this section may, by written permission, permit hunting on the land at the landowner's discretion.

Subd. 6. **Denial of claim; appeal.** (a) If the commissioner denies compensation claimed by a crop or pasture owner under this section, the commissioner shall issue a written decision based upon the available evidence including a statement of the facts upon which the decision is based and the conclusions on the material issues of the claim. A copy of the decision must be mailed to the crop or pasture owner.

(b) A decision denying compensation claimed under this section is not subject to the contested case review procedures of chapter 14, but a crop or pasture owner may have the claim reviewed in a trial de novo in a court in the county where the loss occurred. The decision of the court may be appealed as in other civil cases. Review in court may be obtained by filing a petition for review with the administrator of the court within 60 days following receipt of a decision under this section. Upon the filing of a petition, the administrator shall mail a copy to the commissioner and set a time for hearing within 90 days after the filing.

Subd. 7. **Rules.** The commissioner shall adopt rules and may amend rules to carry out this section. The commissioner may use the expedited rulemaking process in section 14.389 to adopt and amend rules authorized in this section. The rules must include:

- (1) methods of valuation of crops damaged or destroyed;
- (2) criteria for determination of the cause of the crop damage or destruction;
- (3) notice requirements by the owner of the damaged or destroyed crop;
- (4) compensation rates for fence damage or destruction that shall include a minimum claim of \$75.00 per incident and a maximum of \$1,800 per claimant per fiscal year; and
- (5) any other matters determined necessary by the commissioner to carry out this section.

History: 1987 c 373 s 2; 1988 c 469 art 1 s 1; 1995 c 33 s 1; 2007 c 45 art 1 s 7; 2009 c 94 art 1 s 7; 1Sp2011 c 2 art 5 s 1